

Exhibit 10



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

NETLIST, INC., (CAUSE NO. 2:21-CV-463-JRG
)
Plaintiff, ()
vs. ()
SAMSUNG ELECTRONICS CO., LTD., ()
et al., () MARSHALL, TEXAS
(APRIL 21, 2023
Defendants.) 8:00 A.M.

VOLUME 6

TRIAL ON THE MERITS

BEFORE THE HONORABLE RODNEY GILSTRAP
UNITED STATES CHIEF DISTRICT JUDGE
and a jury

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1 THE COURT: Be seated, please.

2 Counsel, before the Court proceeds to conduct the formal
3 charge conference, I will ask if the parties have items from
4 the list of pre-admitted exhibits that were used during
5 yesterday's portion of the trial that need to be read into the
6 record.

7 MS. TRUELOVE: Plaintiff does, Your Honor.

8 THE COURT: All right. Please proceed.

9 MS. TRUELOVE: Thank you, Your Honor.

10 Your Honor, Plaintiff Netlist used two exhibits during
11 examinations yesterday, PX 1787 and PX 44.

12 THE COURT: All right. Is there objection to that
13 rendition from the Plaintiff by the Defendants?

14 MR. REGER: Good morning, Your Honor.

15 THE COURT: Good morning.

16 MR. REGER: Your Honor, we do have an objection to
17 PX 44. Mr. Sheasby went flying through a number of different
18 exhibits, didn't lay any foundation to many of them. More
19 importantly, we never saw this exhibit being used. We asked
20 the Plaintiff about where in the transcript they could point
21 to using this exhibit. They gave us a cite to the transcript,
22 and in that cite there is a reference to a Netlist
23 presentation. PX 44 is a Samsung presentation.

24 So we still don't know of any cite in the transcript that
25 supports entering this exhibit, Your Honor.

1 power management exists in the specification, read column 23,
2 lines 1 through 27, of the '918 Patent, and you will find it.

3 The idea that there is not -- that all of the flash needs
4 to be on the memory module itself contradicts column 27 at 41
5 through 58. Scott Milton admitted it. The non-volatile
6 storage, the flash, can be off module in some of our
7 embodiments. That's what we patented here.

8 Doctor Mangione-Smith testified to the same thing, and
9 Mr. McAlexander testified to the same thing. If someone says,
10 I don't know, I think all the flash has to be on-module, you
11 tell them to read 27:41 through 58 of the '918 Patent.

12 THE COURT: Five minutes remaining.

13 MR. SHEASBY: 143.

14 The last issue I will discuss is damages. Why was
15 Samsung's behavior this way? Why did Samsung never request a
16 license to our patents? They didn't want to pay a reasonable
17 royalty, but they needed to use the technology. They were
18 desperate for it. And you know why. Because they dominate
19 the market and they need to keep dominating the market.

20 The DDR5 patents have a 30-percent power benefit. And
21 the suggestion that speed doesn't matter, which was made by
22 Mr. Calandra, their corporate representative, if someone said
23 speed is not that big of a deal, you take them to JTX 41.
24 Take them to JTX 41. Speed is how they market these products,
25 and it's essential.

1 For the '339 Patent, Doctor Mangione-Smith said that they
2 would be able to sell half as few modules of LRDIMMs if they
3 didn't have our technology, a dramatic hit to their market
4 share.

5 As to HBM stacks, people say stacking is not important?
6 Go to JTX 27. Take them there, and you will read that higher
7 stacks are essential and crucial to the success of this
8 company. Why did they take our HBM technology? They were
9 behind SK hynix and they were desperate to catch up.

10 You will hear in the jury instructions that there is a
11 question about whether there is any non-infringing
12 alternatives that can be used. If I was a company that was
13 facing a verdict of \$400 million, I would bring someone who
14 would explain that there are non-infringing alternatives in
15 our technology is not that important. I just wouldn't rely on
16 my lawyer to say that.

17 Well, they did bring two experts, and neither of those
18 experts were able to identify a single non-infringing
19 alternative to our technology.

20 Why are Samsung's silent patents important? Samsung
21 doesn't have patents that are alternatives to our technology.
22 And if they did, they would present them. And that is why our
23 technology is so valuable.

24 Samsung's 12,000 patents tells you the incredible value
25 of this technology, \$19 billion a year and yet no alternative.

1 because I would like to shake each one of your hands, I'd like
2 to look each one of you in the eye and tell you personally how
3 much the Court appreciates your service as jurors.

4 What you have done is very real and important public
5 service, and it warrants that kind of personal thanks and
6 personal attention. And I know it's Friday and I know it's
7 afternoon and you've been very patient and very diligent
8 throughout your time as jurors and I will not hold you, but if
9 you would give me just a minute or two to come in and thank
10 you personally before you leave, I would certainly consider it
11 an honor.

12 With that, ladies and gentlemen, that completes the trial
13 of the case, the Court has accepted the jury's unanimous
14 verdict, I have released you as jurors, and the jury is
15 excused.

16 (Whereupon, the jury left the courtroom.)

17 THE COURT: Counsel, that completes the trial of
18 this case. You are excused.

19 (The proceedings were concluded at 2:45 p.m.)
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